

**HM COURTS & TRIBUNALS SERVICE  
LEASEHOLD VALUATION TRIBUNAL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL  
Of THE NORTHERN RENT ASSESSMENT PANEL**

**LANDLORD AND TENANT ACT 1985**

**Section 20ZA**

<b>Property:</b>	<b>Apartments 1-24 Queensway Lodge, Queensway, Poulton le Fylde FY6 7ST</b>
<b>Applicant:</b>	<b>Poulton Management Company Limited</b>
<b>Respondents:</b>	<b>Leaseholders of the Apartments at the Property</b>
<b>Tribunal:</b>	<b>L J Bennett (Chairman) Elizabeth Thornton-Firkin</b>
<b>Date of Determination:</b>	<b>4 October 2012</b>

**Application**

1. The Applicant applies to the Tribunal under Section 20ZA of Landlord and Tenant Act 1985 (the Act) for dispensation from the consultation requirements of Section 20 of the Act and in the Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987) in respect of repairs to balcony, parapet walls, gutters, balconies and balcony downpipes at the Property.
2. The Respondents are individual Leaseholders of Apartments at the Property.

**Grounds and Submissions**

3. The application was received by the Tribunal on 23 August 2012. The Respondents are listed in a schedule to the application.
4. On 7 September 2012 a Vice President of the Tribunal as Procedural Chair, made directions which provided that in the absence of a request by a party for an oral hearing the application would be determined without a hearing. Neither the Applicant nor a Respondent requested a hearing.
5. The Property is described in the application form as a block of 24 purpose built flats situated in a single building arranged over ground, 1<sup>st</sup> and 2<sup>nd</sup> floors.

6. The Applicant stated in the application form: "The required works are to remedy defects to the construction of the balconies at the property. To date all of the balconies have leaked and continue to do so affecting the use of the flats below. Whilst there are immediate issues surrounding the preservation of the asset a number of occupiers have had to vacate the property ..... The water ingress is causing damage to the fire alarm system which may render the property unsafe for occupation....."
7. Further information provided within the application form includes that: "It is intended to undertake these works as soon as the contractor is mobilised....." A Section 20 Notice of Intention has been sent to the Leaseholders and three competitive tenders have been obtained based on a specification prepared by a Chartered Building Consultant.
8. The Application states: "Dispensation is sought due to the severity of damage being caused to the property which is damaging the same as well as affecting individuals use of the property. To date a number of tenants have had to vacate the flats"
9. In response to directions from Messrs Lambert Smith Hampton the Applicant's agents provided a copy of the Section 20 Notice dated 7 August 2012, specification of works, TOR specifications and tender returns.
10. None of the Respondent Leaseholders has responded in compliance with directions.
11. The Tribunal convened without the parties to make its determination on 4 October 2012.

## Law

12. Section 18 of the Act defines "service charge" and "relevant costs".
13. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
14. Section 20 of the Act states:-  
**"Limitation of service charges: consultation requirements**  
 Where this Section applies to any qualifying works..... the relevant contributions of tenants are limited..... Unless the consultation requirements have either:-  
 a. complied with in relation to the works or  
 b. dispensed with in relation to the works by ..... a leasehold valuation tribunal.  
 This Section applies to qualifying works, if relevant costs incurred on carrying out the works exceed an appropriate amount".
15. "The appropriate amount" is defined by regulation 6 of The Service Charges (Consultation Requirements) (England) Regulations 2003 (the Regulations) as "..... an amount which results in the relevant contribution of any tenant being more than £250.00."
16. Section 20ZA(1) of the Act states:-  
 "Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any

qualifying works ..... the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements."

### **Tribunal's Conclusions with Reasons**

17. We considered the written evidence accompanying the application.

Our conclusions are:-

18. It is not necessary for us to consider at this stage whether an allowable service charge would result from the works within the terms of the Leaseholders' leases. If and when such is demanded and if disputed, it may properly be the subject of a future application to the Tribunal.
19. We accept from the nature of the works that it is necessary for them to commence without delay. They clearly impact on the health, safety and comfort of occupiers and preservation of the Property.
20. We note the Applicant's agents have initiated a consultation and given notice of their intentions but do not find this a persuasive factor in our decision; a partial process cannot satisfy the statutory requirements.
21. We conclude it reasonable in accordance with Section 20ZA(1) of the Act to dispense with the consultation requirements, specified in Section 20 and contained in Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987), in respect of the proposed works.
22. Nothing in this determination or order shall preclude consideration of whether the Applicant may recover by way of service charge from the Respondent Leaseholders any or all of the cost of the works undertaken should a reference be received under Section 27A of the Landlord and Tenant Act 1985.

### **Order**

23. The Applicant is dispensed from complying with the consultation requirements with the Respondent Leaseholders in respect of the works referred to in the application.

  
L J Bennett  
Chairman  
4 October 2012